

4-9-07

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION

IN THE MATTER OF:	:	CASE NUMBER
	:	
PETER ERNEST WHITE	:	06-12427-WHD
RUBY ANN WHITE,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 13 OF THE
DEBTORS.	:	BANKRUPTCY CODE

**ORDER**

The Debtors' proposed Chapter 13 plan provides for the Debtors to surrender a vehicle to the secured creditor, First Investors Servicing Corp. (hereinafter "First Investors"), in full satisfaction of the debt secured by the vehicle. First Investors has objected to confirmation because the plan fails to provide for payment of First Investors's deficiency claim.

The Debtors filed a voluntary petition under Chapter 13 of the Code on December 12, 2006. On January 27, 2006, the Debtors purchased a 2004 Ford Focus (hereinafter the "Vehicle"). The parties agree that First Investors' secured claim comes within the bounds of the "hanging-paragraph" following section 1325(a)(9). The Debtors contend that this provision limits First Investors ability to seek payment of an unsecured claim for the deficiency remaining after the liquidation of the Vehicle. First Investors asserts that, notwithstanding the Debtors' inability to bifurcate or "cram down" First Investor's secured claim, its right to the payment of a deficiency claim is unaffected by the "hanging paragraph."

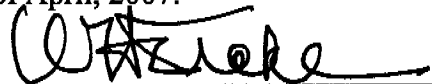
Having considered the parties' briefs, the Court concludes that the "hanging paragraph" does not permit the Debtors to surrender the Vehicle in full satisfaction of First Investors' claim. *See In re Davis*, 06-40692-PWB (Bankr. N.D. Ga. Dec. 14, 2006) (citing *In re Zehrung*, 351 B.R. 675 (W.D. Wisc. 2006); *In re Patricka*, 2006 WL 335018 (Bankr. E.D. Mich. 2006)); *In re Slocum*, 06-

41162-MGD (Bankr. N.D. Ga. Dec. 13, 2006); *In re Leaks*, 06-69445-JEM (Bankr. N.D. Ga. Dec. 22, 2006).

For this reason, confirmation of the Debtors' proposed plan is hereby **DENIED** without prejudice.

**IT IS SO ORDERED.**

At Newnan, Georgia, this 9 day of April, 2007.

  
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W. HOMER DRAKE, JR.  
UNITED STATES BANKRUPTCY JUDGE